

UNCLASSIFIED – S14598

**INSTITUTE ON GOVERNANCE DIALOGUE SERIES:
“CHARACTERISTICS OF THE NATION TO NATION RELATIONSHIP”
Box Information for the Deputy Minister**

DATE: June 1, 2017

SUMMARY

- The purpose of this note is to provide highlights from the dialogue session “Characteristics of a Nation-to-Nation Relationship” organized by the Institute on Governance that took place in Vancouver, British Columbia, on April 25–26, 2017.
- Keynote speakers and panelists included the Honourable Murray Sinclair; Ovide Mercredi, former National Chief of the Assembly of First Nations; Paul Chartrand, former Commissioner of the Royal Commission on Aboriginal Peoples; and Sophie Pierre, former Chief Commissioner of the British Columbia Treaty Commission.
- The focus of the sessions included taking stock of the current environment; conceptualizing jurisdiction (e.g., individual and collective assertions of jurisdiction, the evolving notion of citizenship, and territorial and jurisdiction in an urban setting); jurisdiction in practice (e.g., nature of the inherent right to self-government); application of the principles of modern governance in the context of asserting jurisdiction; exercising jurisdiction outside of territory; intergovernmental relationships; and First Nation authority and decision making.
- Overall, the meeting was characterized by an expressed level of frustration with the perceived inertia of the federal government. Some key messages included:
 - “The source of our power of authority as Indigenous nations is not the Supreme Court, provinces, etc., it is assumed authority”; and “Not a transfer of authority from the government to us – we are an existing government”
 - “It is time for Canada to compromise; no nation has become great by waiting for permission” and “Ask not who has the power to do ‘x’, but who should have the power.”
 - “Is there a willingness of non-Indigenous government to make room for Indigenous government?” and “We need our own bureaucracies/central agencies (national institutions)”.
 - “Government is set up to not change: need public servants who will be warriors within, push the barriers, etc.”
 - “Government is struggling department by department multiplied by 634 ‘Indian Bands’; the political will is there (i.e., the Prime Minister is in alignment – e.g., Cabinet, Cabinet committees, Review of Laws); bureaucracy is not there.”
 - “We should be concerned about outcomes and less about rules (under guise of accountability)”.
- Overall, there was a sense that the Government of Canada needs to find more innovative and flexible ways to move forward, with greater alacrity to advance the Indigenous priority.
- The meeting held in Vancouver was the second in a series of workshops organized by the Institute on Governance and that will end with a meeting in Ottawa in the fall under the title of “The Future of the *Indian Act*?” The next workshop in the series will be held June 5–6, 2017, in Toronto to discuss intergovernmental fiscal relationships, with Paul Thoppil attending. A representative from the Strategic Policy Division will be present. A further workshop (Collective Governance and Wealth Creation) will be held in Halifax, likely in September.
- See Annex A for an overview of remarks from the Institute on Governance Vancouver dialogue session.

Annex A: Characteristics of a Nation-to-Nation Relationship

Characteristics of a Nation-to-Nation Relationship

Overview of Remarks

Vancouver, BC, April 25-26, 2017

1. Opening Remarks

Kwes'Kwestin James Kew – Musqueam First Nation

- may your soul see far

Maryantonett Flumian, Institute on Governance

- imagination and political will should not be allowed to fail us this time

2. Taking Stock of the Current Environment

Ovide Mercredi, Former National Chief, Assembly of First Nations

- Source of our power of authority as Indigenous nations is not the Supreme Court, provinces, etc., it is assumed authority.
- Not a transfer of authority from the government to us – we are an existing government
- It's a human right to our freedom, not a freedom
- It's time for Canada to compromise; no nation has become great by waiting for permission.

The Honourable Murray Sinclair, Canadian Senator for Manitoba, Chair of the Indian Residential Schools Truth and Reconciliation Commission

- We are laying the foundation for our children for nation-to-nation, it is our children who will implement nation-to-nation
- 5 questions you need to be able to answer (to be healthy):
 - You have to know where you come from (history, mythology, songs, etc.)?
 - Where am I going (what happens after I die, how do I prepare for that, etc.)?
 - Why am I here (purpose in life), what am I here to do?
 - Who am I (who are we as a people), what makes us unique, what makes us different?
 - What is the meaning of life?
- How do we come to terms with this history so that we can move forward?
- Starts and ends with education.

3. Conceptualizing Jurisdiction

- Individual and collective assertions of jurisdiction
- The evolving notion of citizenship
- Territorial and jurisdiction in an urban setting

Paul L.A.H. Chartrand, former Commissioner, Royal Commission on Aboriginal Peoples

- Ask not who has the power to do 'x', but who should have the power
- Subsidiarity – never trust to a bigger unit, that which can be done by a smaller unit
 - More acquainted with shared values and interests
 - Favours self-determination
 - Onus on higher-level to make the case for decision-making power
- Jurisdictional disputes can be replaced by subsidiarity

Harold Calla, Executive Chair, First Nations Financial Management Board

- Jurisdiction: how you define it/your vision – people need to respect it
- Is there a willingness of non-Indigenous government to make room for Indigenous government?
- Aboriginal rights and title are here to stay – get used to them
- Need a transitional mechanism
- Is Canada going to have the patience to allow First Nations to develop capacity
- Need our own bureaucracies/central agencies (national institutions)

Maryantonett Flumian, President, Institute on Governance

- Government is set up to not change: need public servants who will be warriors within, push the barriers, etc.
- *Indian Act* 2.0 shouldn't exist; starting point is the Royal Proclamation
- Citizenship beyond land-base
- Struggling department by department x 634 'Indian Bands'
- Political will is there (i.e. Trudeau's in alignment – e.g., Cabinet, Cabinet committees, Review of Laws, etc.); the bureaucracy is not there

4. Jurisdiction in Practice - Concepts that will be explored include:

- Nature of the inherent right to self-government
- Application of the principles of modern governance in the context of asserting jurisdiction

Dave Joe, OC, former Chief Negotiator, Council of the Yukon First Nations

- Major issue is capacity
- Need money to retain personnel (competing against F/P/T rates of pay)

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Peter Lantin, President, Council of the Haida Nation

- Haida Accord – one voice, one approach
 - Collective pot – required giving up something for the greater good
- Co-management of resources (e.g., BC and Haida Gwaii)
- Haida have a lot of economic presence (e.g., tree farms, fishing lodges, decision-making re. clear cutting, etc.)
- Peace Treaty with Bella Bella
- Bought out all hunting licenses; banned oil-tankers – defeated Enbridge

5. Jurisdiction in Practice - Concepts that will be explored include:

- Exercising Jurisdiction outside of Territory
- Challenges in exercising Jurisdiction
- Treatment of citizens beyond territory

Ginger Gosnell-Myers, Aboriginal Relations Manager, City of Vancouver

- 27/94 CTAs within jurisdiction (e.g., healing centres – Vancouver creating 2 healing centres; 1 for youth 1 for families)
- Engagement/recognition (e.g., renaming streets, parks, etc.)
- City of Reconciliation (Vancouver) – awkward to celebrate 150 years of colonialism...led to Canada 150+

Mike Mitchell, former Akwasasne Grand Chief

- Akwasasne unique – 2 nations, 2 provinces, 1 state
- Asserting jurisdiction – taking our place

6. Intergovernmental Relationships

Sophie Pierre, OC OBO, former Chief Commissioner of the BC Treaty Commission

- We need to generate that space; people aren't going to do it for us
- Exercising authority

Stephen Kakfwi, President, Canadians for a New Partnership

- Strive for equality; define what it is that you want

Marc LeClair, President, LeClair Infocom Inc.

- Follow the cash; if no money on the line, there's no point
- Need political will

7. First Nation Authority and Decision Making

Marilyn Slett, Chief Councillor, Heiltsuk Nation

- Integrated leadership department; stewardship and management of resources
- Successfully challenged Enbridge (pipeline)
- Joint herring management plans
- Framework agreement for reconciliation with Canada

Doug Kelly, Grand Chief, Chairman of the First Nations Health Council

- Shared decision-making
- Get out of our way
- We have our vision
- Should be concerned about outcomes and less about rules (under guise of accountability)

8. Next Steps: Ovide Mercredi, Former National Chief, Assembly of First Nations

- Landlessness of First Nations is greatest crime; need land for self-determination
- We are the victims of oppression – that is what we want to change – is Canada going to be opposed to that change?
- Part of the healing is accepting our reality (i.e., not having to prove it)
- Finish what your father started (to the Prime Minister)

**INSTITUTE ON GOVERNANCE DIALOGUE SERIES:
“CHARACTERISTICS OF A NATION TO NATION RELATIONSHIP:
INTERGOVERNMENTAL FISCAL RELATIONSHIPS”**

Box Information for the Deputy Minister

DATE: July 27, 2017

SUMMARY

- The purpose of this note is to provide the highlights from the dialogue session “Characteristics of a Nation-to-Nation Relationship: Intergovernmental Fiscal Relationships” organized by the Institute on Governance that took place in Toronto, Ontario, on June 5–6, 2017.
- Keynote speakers and panelists included Regional Chief Isadore Day, Michael Ferguson, Auditor General of Canada, the Honourable Bob Rae, former premier of Ontario, Ovide Mercredi, former National Chief of the Assembly of First Nations, and Paul Thoppil, Chief Finances, Results and Delivery Officer of INAC.
- The focus of the sessions included understanding the current funding approach; identifying the challenges to the fiscal relationship; governance, accountability, and transparency; and the characteristics of the New Fiscal Relationship (institutions and systems required to sustain this new fiscal approach).
- Similar to the session held in Vancouver on April 25–26, 2017 (S14598), this meeting was characterized by a level of frustration expressed by a number of participants concerning the slow pace of change within the federal government. Key messages included:
 - “The current grants and contributions model has been a failure;”
 - “We need to transfer bureaucracy and fiscal authority to First Nations institutions;”
 - “The Government knows best, paternalistic approach needs to change;”
 - “Block funding is key but is only available for provinces and territories (Indigenous Governments are still treated differently);”
 - “The current fiscal policy of self-governing agreements is beset with issues (e.g., off-set of own-source revenues; absence of loan forgiveness);” and
 - “The New Fiscal Relationship should be based on legislation within a whole-of-government approach.”
- Overall, there was a sense that the current fiscal landscape is not meeting the needs of Indigenous communities, with a more flexible fiscal relationship required.
- The meeting held in Toronto was the third in a series of workshops organized by the Institute on Governance that will end with a meeting in Ottawa in November under the title of “The Future of the *Indian Act*?”
- The next workshop in the series will be held in Halifax on September 7 to discuss “Collective Governance and Wealth Creation”. A representative from the Strategic Policy Division will be present, and Sheilagh Murphy has recently been invited to sit on a panel also in September. To note, Diane Lafleur met with Maryantonett Flumian in late March 2017, wherein Ms. Flumian noted the importance of government participation at the Institute on Governance discussions.
- As the series of workshop culminates, consideration may be given to invite the Institute on Governance to present their key findings to the Department (e.g., at a Senior Policy Committee meeting).
- See Annex A for an overview of remarks from the Institute’s Toronto dialogue session.

Annex A: Characteristics of a Nation-to-Nation Relationship: Intergovernmental Fiscal Relationships: Overview of Remarks

**Characteristics of a Nation-to-Nation Relationship:
Intergovernmental Fiscal Relationships**
Overview of Remarks
Toronto, Ontario, June 5–6, 2017

1. Opening Remarks

Garry Sault, Ojibway Elder– Mississaugas of the New Credit First Nation

- There can be no reconciliation until all Canadians understand and respect the Treaties.

Maryantonett Flumian, Institute on Governance

- Jurisdiction is hollow without the resources to apply it.
- The current funding approach is flawed, based on stagnant transfers and unpredictable funding for Indigenous communities.

2. Taking Stock of the Current Environment

- Concepts that will be explored include:
 - nature of the current fiscal relationship; and
 - structural impediments that hinder progress.

Regional Chief Isadore Day, Chiefs of Ontario

- Too many communities are currently managing misery.
- The bureaucracy needs to follow up on the Prime Minister and the Minister's promises.
- In order to achieve a New Fiscal Relationship, similarly to building a house, four elements are required, which include:
 1. a sound foundation;
 2. the right tools;
 3. a respectful process; and
 4. a sense of ownership.

Michael Ferguson, Auditor General of Canada

- Several audits over past decades have left the Auditor General frustrated by the slow pace of change to programming aimed at Indigenous Peoples. There are eight factors that need to be in place for programs to work:
 - sustained political will;
 - nation re-building and aggregation between federal departments and provinces (one-stop shop);
 - meaningful consultations (the Government alone should not determine the level of services that it will provide);
 - clear statement of the level of services that the Federal Government will provide (comparable level of service);
 - legislative base for service delivery (de-politicize the issue);
 - accountability (the Federal Government is accountable for the level of services that it provides);
 - stable level of funding; and
 - monitoring of level of service.

The Honourable Bob Rae, former Premier of Ontario

- We need to acknowledge that the Government is systematically discriminating against citizens on reserve.
- Indigenous governments, contrary to other levels of government, are seen by the Federal Government as institutions that need to be controlled, monitored, and disciplined.
- This is why we need to go back to the Royal Commission on Aboriginal Peoples and recognize that we have created the problem with the Indian Band system of grants and contributions.
- The foundation of a new fiscal relationship should be equal governance.

3. Framing the issue

- Concepts that will be explored include:
 - the challenges created by the current financial relationship; and
 - the rationale for being funded in a fashion similar to federal funding for provincial and territorial governments for core services.

Harold Calla, Executive Chair, First Nations Financial Management Board

- As Indigenous communities, we need to raise our own revenues but the *Indian Act* does not allow that; we need to create our own institutions.
- We need to take the opportunity that the New Fiscal Relationship negotiations offer to rebuild as a Nation, to come as a unified front to the table.
- We also need our own data as we had before the *First Nations Statistical Act* was repealed by the previous government.

Howard Grant, Executive Director, First Nations Summit

- This New Fiscal Relationship initiative is actually far from new; this is the same policy that Paul Martin tried to implement.
- The major impediment to this “New” Fiscal Relationship is the lack of involvement of Central Agencies; the Minister of Finance needs to be involved.
- The way that the Department manages contributions agreements is reminiscent of the ‘Indian Agents’ era.

Wayne Wouters, Strategic and Policy Advisor, McCarthy Tétrault (former Clerk of the Privy Council of Canada)

- The current grants and contributions system has generally failed First Nations forcing them to spend the time either:
 - re-negotiating the agreements;
 - ensuring that the money actually flows; or
 - reporting back for reports that nobody really reads.
- But this system is fixable, it would only take a Cabinet decision (no legislative change is required).

Paul Thoppil Chief Finances, Results and Delivery Officer at INAC

- There are fundamental differences between Indigenous communities operating under the *Indian Act* and those that are self-governing; the two have distinct fiscal relationships with Canada.

- Therefore, two distinct New Fiscal Relationship processes have been created: the New Fiscal Relationship Working Groups with the Assembly of First Nations; and the Collaborative Fiscal Policy Development Process 2017 (Self-Government Working Groups).

4. Challenges to the Fiscal Relationship

- Concepts that will be explored include:
 - feasibility of the New Fiscal Relationship; and
 - persisting barriers (legal, political, institutional) that must be confronted.

Robert Louie, former Chief, Westbank First Nation

- Resources that are needed to move to a new fiscal relationship:
 - jurisdiction over Aboriginal title (not just reserve land);
 - capacity to raise our own revenues (First Nations Land Management regime needs to be expanded);
 - revenue sharing agreements; and
 - institution building.

Dave Joe, OC, former Chief Negotiator, Council of the Yukon First Nations

- Persisting barriers within the current self-governing fiscal policy:
 - self-government agreement funding and transfers are based on status (whereas we recognized a broader base of citizens);
 - off-setting of own-source revenues (own-source revenues should not be deducted from transfers until the socioeconomic gaps are closed); and
 - lack of constitutional basis for the fiscal relationship (it changes with the Government of the day).

Jennifer St. Germain, Métis Nation of Ontario, Chief Strategy Officer

- Program funding does not provide predictable funding and does not answer the needs of our citizens in the long run.
- As Métis, we are not asking for more of the pie that goes to First Nations or Inuit; we are asking for that pie to get bigger.

5. Addressing the Fiscal Relationship

- Concepts that will be explored include:
 - the fiscal capacity required to exercise the transfer of jurisdiction; and
 - interim steps to support communities as the New Fiscal Relationship is implemented.

Celeste Haldane, Chief Commissioner, BC treaty Commission

- Interim steps to support communities:
 - loan forgiveness for First Nations that are participating in Treaty negotiations; and
 - treaty funding transfers based on citizenship not status.

David Paul Achneepineskum, CEO, Matawa First Nations Management

- We are still under a welfare system with 'Indian Agent' watching over our shoulders.
- The Government needs to let go of its 'take it or leave it' approach.

Ernie Daniels, CEO, First Nations Finance Authority

- Economic development and own-source revenues is key.
- We need to invest in institutions (e.g., First Nations Finance Authority) for them to continue evolving and growing; to eventually remove the federal government as gate-keeper.
- Any new fiscal relationship should be opt-in to enable First Nations to move at their own space; sectoral governance initiatives are important steps to self-governance (continuum of governance).

Shannin Metatawabin, CEO, National Aboriginal Capital Corporations Association

- As interim steps you need:
 - stronger First Nation institutions (e.g., First Nations Finance Authority, National Aboriginal Capital Corporations Association);
 - long-term growth supported by block funding; and
 - a whole-of-government economic development strategy.

6. Governance, Accountability, and Transparency

- Concepts that will be explored include:
 - capacity, capability, and institution building required to financially sustain the transfer of jurisdiction; and
 - reciprocal accountability to be articulated and practiced between the parties.

Scott Serson, Canadians for a New Partnership (former Deputy Minister, INAC)

- We need to go back to Royal Commission on Aboriginal Peoples recommendations and carve out of INAC the Department of Indigenous Peoples Relations.
- We need a non-hierarchical fiscal partnership to keep each other (Indigenous communities; other levels of government) accountable in a learning and improving public service culture.

Stephen Kakfwi, President, Canadians For a New Partnership (former Premier of the Northwest Territories)

- What we lack is an overall strategic department and government-wide plan that goes beyond the New Fiscal Relationship to rebuild Nations.

7. The Characteristics of a New Intergovernmental Fiscal Relationship

- Concepts that will be explored include:
 - responsibilities of the Crown in seeing changes take place; and
 - steps needed to form a bridge to economic reconciliation.

Ovide Mercredi, former National Chief, Assembly of First Nations

- The Prime Minister seems to be willing to proceed with structural and fundamental change but are Canadians and other politicians ready for that?
- Use the Charlottetown Accord, the United Nations Declaration of the Rights of Indigenous Peoples, the Royal Commission on Aboriginal peoples Report, and the Truth and Reconciliation Commission Calls to Action as guidelines for a way forward; do not reinvent the wheel.

8. Closing Remarks and Next Steps

Maryantonett Flumian, Institute on Governance

- The Institute on Governance National Series will culminate in Ottawa in fall 2017 to bring forward a workplan, including clear timelines for a true nation-to-nation relationship.

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INSTITUTE ON GOVERNANCE DIALOGUE SERIES – CHARACTERISTICS OF A NATION TO NATION RELATIONSHIP: WEALTH CREATION

Box Information for the Deputy Minister

DATE: September 25, 2017

SUMMARY

- This note is to provide highlights from the dialogue session Characteristics of a Nation-to-Nation Relationship: Wealth Creation organized by the Institute on Governance that took place in Halifax, Nova Scotia, on September 7, 2017.
- Keynote speakers and panelists included Regional Chief Morley Googoo, First Nations Tax Commission Deputy Chief Commissioner David Paul, Royal Commission on Aboriginal Peoples Former Commissioner and Mi'kmaq Rights Initiative Lead Negotiator Viola Robinson, and Membertou First Nation of Nova Scotia Chief Terrance Paul. Director Geoff Cole from the Lands and Economic Development Sector in the Department's Atlantic regional office was a panelist (replacing Lands and Economic Development Sector Assistant Deputy Minister Sheilagh Murphy).
- The session focused on advancing reconciliation, understanding the characteristics of a nation-to-nation relationship in the context of economic development, identifying existing economic opportunities and determining how government can support relationships between Indigenous communities and the private sector, and showcasing an example of successful Indigenous wealth creation.
- Unlike the preceding sessions held in Vancouver in April 2017 (S14598) and Toronto in June 2017 (S14692), this session was less focused on specific governmental roles and underscored the opportunity and potential for Indigenous communities moving forward in the economic space. Key messages include:
 - a sense of urgency required to consolidate gains and move forward in an environment where the “window” may be closing;
 - the importance of community-driven solutions and the need for Indigenous authority, jurisdiction, and institutions as enablers for wealth creation;
 - significant potential and opportunity to be leveraged through Indigenous businesses and how government can play a facilitative role; and
 - a sense of guarded optimism surrounding the recent decision to create the departments of Indigenous Services and Crown–Indigenous Relations and Northern Affairs.
- The meeting held in Halifax was the fourth in a series of workshops organized by the Institute on Governance culminating in a national event in Ottawa on November 27–28, 2017, addressing the outcomes of discussions that have emerged throughout the series including themes, challenges, results, and timelines.
- Officials from the Institute on Governance also expressed their interest to meet “Chatham house rules format” with the Department's senior management in September 2017 to update officials on messages from the series and better understand emerging direction in the context of the creation of the departments of Indigenous Services and Crown–Indigenous Relations and Northern Affairs.
- See Annex A for an overview of remarks from the Institute on Governance Halifax dialogue session.

Annex A: Characteristics of a Nation-to-Nation Relationship: Wealth Creation –
Overview of Remarks

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ANNEX A**

**CHARACTERISTICS OF A NATION-TO-NATION RELATIONSHIP:
WEALTH CREATION
OVERVIEW OF REMARKS
HALIFAX, NOVA SCOTIA
SEPTEMBER 7, 2017**

1. Opening remarks

John Paul, Executive Director, Atlantic Policy Congress

- Work needs to progress on developing nation-to-nation relationships.
- The Institute on Governance discussion series represents an opportunity to hear a diversity of views and advance change.

Scott Serson, Board Member, Canadians for a New Partnership

- He highlighted two recent key developments that will shape discussions moving forward. He specifically mentioned the release of the principles on the federal government's relationship with Indigenous Peoples by the Minister of Justice and Attorney General of Canada followed by the Prime Minister's announcement on the dissolution of Indigenous and Northern Affairs Canada and the creation of Indigenous Services and Crown-Indigenous Relations and Northern Affairs.
- He underscored the importance of the final session in Ottawa on November 27–28, 2017, to draw together the lessons learned throughout the dialogue series.

2. Taking stock of the current environment

Regional Chief (Newfoundland and Labrador) Morley Googoo

- He said that many do not understand what reconciliation means or how to approach it.
- Understand the importance of advancing reconciliation at the community level and not “waiting” for government.
- Spoke of the creation of “legacy rooms”, which are dedicated spaces in buildings to promote reconciliation (e.g. at Dalhousie University).
- The importance of creating a new narrative that moves beyond reliance, co-management, and dependency to one of reconciliation.
- The importance of Indigenous youth voices, as they represent the future ambassadors of hope.
- He quoted Perry Bellegarde: “learn from the past, but do not live in it.”
- He mentioned eight key steps to advance reconciliation in the context of wealth creation:
 1. establish a sense of urgency (understanding the deal-breakers);
 2. create a guiding coalition (need to get the public onboard);
 3. develop a vision/strategy;
 4. communicate the vision/strategy;
 5. empower broad-based actors;
 6. generate short-term gains;

7. consolidate gains; and
8. Anchor new approaches to culture.

3. Framing the issue

Mary-Beth Doucette, Executive Director and Associate Chair of the Purdy Crawford Chair in Aboriginal Business Studies, Cape Breton University

- Spoke of the importance of community-driven solutions and choices in the realm of economic development, community understanding, and exercising choices that best reflect community needs.

David Paul, Deputy Chief Commissioner, First Nations Tax Commission

- Spoke of the need to move away from “programming” (avoid going to Ottawa for solutions).
- Nation-to-nation is premised on land holding, jurisdiction, and the ability to create laws and raise taxes.
- Need to move toward independent authorities for Indigenous Peoples.
- The importance of data and how Indigenous communities need to “own” the data (as opposed to Statistics Canada), as in many instances, community leadership does not fully understand the economic reality/profile of communities given the absence of data.

Geoff Cole, Director, Lands and Economic Development, INAC Atlantic Regional Office (replacing Sheilagh Murphy, Assistant Deputy Minister, INAC Lands and Economic Development)

- Spoke of the challenge of advancing wealth creation under the *Indian Act* while facilitating conversations with those communities who want to move beyond the *Indian Act*.
- In the context of supporting wealth creation, he cited the importance of land (additions to reserves), community choice and governance, the capacity to allow for negotiation, and access to capital.
- A new framework that is underpinned by Indigenous jurisdiction and authority, community-driven solutions, transparency, and ethical governance needs to be established.
- Spoke of the importance of education, partnerships across governments/civil society, policy changes (e.g. *First Nations Land Management Act* and the ability of communities to remove themselves from sections of the *Indian Act*).

4. Lessons from the Royal Commission on Aboriginal Peoples

Viola Robinson, Former Commissioner, Royal Commission on Aboriginal Peoples and Lead Negotiator, Mi'kmaq Rights Initiative

- Spoke of the need to establish a new relationship that is bottom-up.
- The Royal Commission on Aboriginal Peoples consultations revealed that virtually all want to eliminate the *Indian Act* but that there is lack of clarity as to what it should be replaced with.

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- She said that the *Indian Act* has torn Indigenous Peoples apart and that Indigenous Peoples need to determine “who [they] are” and that they cannot rely on government in answering that question.
- The importance of establishing self-government with nations as opposed to with 634 bands.
- She said that the focus should not be uniquely on “wealth creation” but rather on the independence and empowerment of communities.
- She said that no business would think of partnering with First Nation communities 15 years ago but that there now is a willingness to pursue new business opportunities with First Nation communities.
- She said that a new proclamation should be put into place to replace the Royal Proclamation of 1763 once Indigenous Peoples are established as a veritable level of government.
- She was optimistic about the new way forward with establishment of the departments of Indigenous Services and Crown–Indigenous Relations and Northern Affairs and saw the change as an important step toward repealing the *Indian Act*.

5. Opportunities

Clint Davis, Partner and Managing Director, Acasta Capital Indigenous

- Acasta Capital Indigenous partners with Indigenous governments and economic development corporations to achieve growth and value creation by assisting in the maximization of their inherent competitive advantage.
- Spoke of the importance of community as the shareholder of economic growth.
- Noted the Toronto Dominion Bank’s report on Estimating the Size of the Aboriginal Market in Canada who recorded that the size of the Indigenous market (total income of Indigenous households, businesses, and governments) was recorded at \$24 billion in 2011 and was estimated at \$32 billion for 2016.
- Said that the government needs to “get out of the way and that procurement is an area that needs to be explored with government, since Indigenous Peoples only receive 0.4% of total public-sector procurement (2015 figures) which represents only \$64 million.

Denise Poitier, Vice-President Aboriginal Relations, Stantec Board Member, Canadian Council on Aboriginal Business

- She made remarks centred on results from the 2016 National Aboriginal Business Survey of 1,000 Indigenous businesses (on and off reserve).
- In comparison to an earlier survey undertaken in 2010, Indigenous-owned businesses noted overall positive growth and optimism, notwithstanding challenges of labour force, retention, and government policy.
- Respondents noted improvements on access to capital and improved revenues.

Naiomi Metallic, Assistant Professor of Law, Dalhousie University

- She said that not all communities are at the same starting point and that there is a need to address the socioeconomic disparities that are a legacy of the Indian

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residential school system and chronic underfunding (reference to the Canadian Human Rights Tribunal).

- Spoke of the importance of capacity building to revitalize Indigenous laws and governance and made a positive reference about the Independent Centre for First Nations Government established under former prime minister Paul Martin).

Brian McGuigan, Manager, Aboriginal Policy, Canadian Association of Petroleum Producers

- The Canadian Association of Petroleum Producers represents small, medium, and large petroleum companies.
- Spoke of the 2016 industry engagement policy paper on the implementation of the United Nations Declaration on the Rights of Indigenous Peoples and the role of industry in advancing reconciliation.
- Spoke of opportunities such as capacity funding, employment (only 6% of Canadian oil and gas industry is Indigenous), and industry procurement (e.g. oil sands-based companies did \$4 billion worth of procurement with Indigenous-owned companies in 2013–2014).
- Spoke of the role of government in advancing reconciliation, facilitating access to capital, and improving consultation processes.
- Spoke of Indigenous responsibility in terms of better visioning and planning (defining prosperity for communities) and governance and business structure (ensuring clarity).

6. Wealth creation in practice – modelling success

Chief Terrance Paul, Membertou First Nation, Nova Scotia

- He addressed the success of the Membertou First Nation (e.g. the 80% employment rate, brand building, International Organization for Standardization certification, being the third largest employer in Cape Breton, the ownership of six fishing vessels, key investments and activities in the tourism sector, and partnership with other communities in areas such as health and emergency management).
- Education and ownership are key enablers.
- Looking at new opportunities such as aquaculture.
- Spoke of the importance of planning against demographic realities of the Membertou First Nation such as the anticipated population growth over the upcoming five (25%) to ten (50%) years.
- He noted the importance of rebuilding nations (e.g. Mi'kmaq are pan-Atlantic and should be under one nation and the importance of critical mass).

7. Closing remarks

Barry Christoff, Vice-President, Indigenous Governance, Institute on Governance

- He highlighted the final session of the Institute on Governance series that will take place on November 27–28, 2017, in Ottawa, Ontario.

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**MEETING WITH THE INSTITUTE ON GOVERNANCE
10 WELLINGTON, 20TH FLOOR, GATINEAU
MAY 30, 2016**

PARTICIPANTS

INAC

- Françoise Ducros, Senior Assistant Deputy Minister, Policy and Strategic Direction
- Joe Wild, Senior Assistant Deputy Minister, Treaties and Aboriginal Government

OTHER

- Maryantonett Flumian, President, Institute on Governance
- Barry Christoff, Vice President, Indigenous Governance, Institute on Governance

AGENDA

1. Renewing the relationship between Canada and Indigenous peoples

CONTEXT/FEDERAL OBJECTIVES

- Maryantonett Flumian, President of the Institute on Governance and former Deputy Minister in the Federal Public Service, requested a meeting with you to discuss the Institute's plans in support of the Government's commitment to renew a Nation-to-Nation relationship with Indigenous peoples.
- In April 2016, Ms. Flumian had a similar meeting with Pamela McCurry, Assistant Deputy Minister, Aboriginal Affairs Portfolio, and Michael Hudson, Lead, Task Force on Constitutional Relations with Indigenous Nations, both from the Department of Justice. The purpose of the meeting was to promote the Institute's ability to support the Government's mandate through three specific lines of activity, including: capacity building workshops for public servants; facilitation services during consultations with Indigenous groups; and, guidance on partnership building. The Department of Justice made no firm commitment. It is understood that your forthcoming meeting with Ms. Flumian will serve the same purpose.
- Founded in 1990, the Institute on Governance is an independent, not-for-profit institution that strives to advance better understanding and practice of good governance in Canada, with federal, provincial, municipal and Indigenous governments, and not-for-profit organizations. The Board of Directors is comprised of public and private sectors representatives. Michael Wernick, Clerk of the Privy Council and former Deputy Minister of INAC, was a member of the Board in the past.
- The Institute's activities include an important Indigenous governance component designed to assist Indigenous communities and organizations in elaborating effective governance structures that meet their needs. Recently, the Institute has

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been advising the British Columbia First Nations Health Authority on transforming the planning, designing, managing and funding of the delivery of health programs and services for First Nations in British Columbia. It also undertook a series of symposiums focused on Section 35 of the *Constitution Act* during 2012 and 2013 with the British Columbia Treaty Commission to encourage public dialogue.

- The Institute recently held a six-part breakfast dialogue series for public servants in response to the new government's policy priorities. Analysts from the Strategic Policy Directorate attended four of these discussions and prepared discussion summaries (provided under Annexes A, B, C and D).
- One of the sessions discussed the renewal of a Nation-to-Nation relationship between the Government and Indigenous peoples. Ms Flumian was one of the four panellists. The other panelists included Will David, Executive Director of the Indigenous Rights Centre, the Hon. Ian Binnie, former Supreme Court Justice, and Scott Serson, former Deputy Minister at INAC. Panelists were asked to identify the characteristics of a Nation-to-Nation relationship, and indicate what they mean for the Public Service.
- In summary, Ms. Flumian suggested that the Government, in consultation with Indigenous partners, should first define Reconciliation and emphasized the need for clear principles to guide its actions.
- She noted that the Government should avoid lengthy discussion processes and begin working with its partners to bridge the socio-economic gaps between Indigenous peoples and other Canadians. The issues that Indigenous peoples are facing are well identified and vastly documented. The Government's action should focus on attainable objectives, rather than aiming for the impossible.
- Ms. Flumian also indicated that the Government should consider reviewing its current set of policy tools while redefining its relationship with Indigenous peoples. Some of these tools, such as the *Indian Act*, were adopted with the objective of assimilating Indigenous peoples and could hinder the reconciliation process.
- On Indigenous governing entities, she suggested exploring aggregation of Indigenous organizations (e.g., B.C. First Nations Health Authority), but recognized that a single model cannot be established across the country.
- Ms. Flumian underscored that "someone" needs to be empowered to be the master convener, but at the same time, the Government should not spend excessive time getting organized.
- A summary of the other panelists' discussions is available under Annex B.

1. Renewing the relationship between Canada and Indigenous peoples

Status

- At the release of the Truth and Reconciliation Commission's final report, the Government of Canada announced that it would enter into discussions with key partners to design an engagement strategy for a national reconciliation framework informed by the Truth and Reconciliation Commission's Calls to Action.

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- No extensive discussions have taken place on the implementation of an engagement strategy for the development of a national reconciliation framework, as the focus has been on the work required on the Inquiry on missing and murdered Indigenous women and girls, roll-out of the 2016 Budget, and advancement of Canada's revised decision on the United Nations Declaration on the Rights of Indigenous Peoples at the United Nations Permanent Forum on Indigenous Issues.
- Discussions are occurring within INAC with respect to a work plan and key roles for pre-engagement discussions. INAC will complete an environmental scan of all federal/provincial/territorial opportunities that could be appropriate fora for discussions on reconciliation and the Calls to Action.
- The Department is also working on an engagement tracking and strategic oversight mechanism to coordinate federal efforts and avoid an unintended consequence of engagement fatigue.

Key Messages

- **Important work in support of the Government's Indigenous agenda has started, but the bulk of this massive undertaking lies before us.**
- **In the coming months, we will be leading multiple engagement sessions with Indigenous peoples and other key stakeholders. We will also be requested to build business cases and elaborate policy and legislative proposals, cost estimation models, risks mitigation strategies and other policy-related tasks.**
- **Two weeks ago, the Minister and her staff met with INAC senior executives for a two-day retreat to discuss overall priorities and to shape a common way forward.**
- **We are also anticipating holding an Executive Committee retreat in June to advance concrete work planning consistent with deliverology in order to define priorities over the short-, mid- and long-term.**
- **We share your view that the Department needs to advance the Indigenous agenda without delays. As you know, we are rolling out Budget 2016 with a focus on closing the socio-economic gap.**
- **Collaboration with organizations like the Institute on Governance would ensure that public servants have innovative tools to deliver on the Government agenda.**
- **The Institute on Governance's expertise in dealing with Indigenous peoples could prove useful as the Government moves forward with the national reconciliation framework informed by the Truth and Reconciliation Commission's Calls to Action.**

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ANNEXES

Annex A - Institute on Governance Breakfast Series: Nation-to-Nation

Building the Bargain: Public Service Leaders and the New Government
Institute on Governance Breakfast Series
Nation-to-Nation – April 22, 2016

SUMMARY BOX

- The Nation to Nation discussion involved four panelists: Will David, Executive Director of the Indigenous Rights Centre, the Hon. Ian Binnie, former Supreme Court Justice, Scott Serson, former deputy minister at INAC, and Maryantonett Flumian, President of the Institute on Governance.
- Panelists were asked to identify the characteristics of a Nation-to-Nation relationship, and indicate what they mean for the public service.

Hon. Ian Binnie:

- Justice Binnie emphasized that Nation-to-Nation does not mean sovereignty or self-government. According to Mr. Binnie, the concept of a Nation-to-Nation relationship is a political fabrication that does not carry much legal weight. The adoption of the Commons motion recognizing the Province of Quebec as a nation is an example of that concept's limitations. At most, it is a symbolic gesture that demonstrates the Government's willingness to enhance its relationship with Indigenous peoples, but it will not solve the issues Indigenous peoples are facing.

Scott Serson

- Pointing to Minister Bennett's Mandate Letter, the Truth and Reconciliation Commission's 94 Calls to Action, including implementing the UNDRIP, and other campaign commitments, such as implementing Eyford's recommendations, Serson indicated that this Government has a massive Indigenous agenda.
- Moving forward, it will be important that the government conducts a robust priority-setting exercise and elaborates a framework to implement all these commitments in collaboration with its Indigenous partners. He said that Indigenous leaders have said to him, "don't come to us with best practices. Come with wise practices and we'll decide if they are best for us."
- Mr. Serson spoke about the need for the public service to support nation re-building in a respectful way.
- He said considerations should be given to potential machinery of Government changes. These changes could include splitting the Department of Indigenous and Northern Affairs to allow the creation of a department on Nation-to-Nation relationships or reconciliation.
- Mr. Serson also indicated that the federal government is light years ahead of Provinces/Territories in terms of readiness and willingness to tackle Indigenous issues. The federal Government should do more to further engage Provinces and Territories to ensure success.
- He pointed out the challenge of involving civil society and emphasized that it will be impossible to achieve Nation-to-Nation without public education.
- Mr. Serson explained how a central agency unit managed Kelowna and suggested that the creation of such a unit be considered now.
- He spoke often about RCAP and how the initial energy surrounding it trailed off. He said we need to seize this historic opportunity and not let our focus wane.

Will David

- According to Mr. David, a Nation-to-Nation relationship must be founded on diversity, cooperative federalism and self-determination. He views Nation-to-Nation as a decolonization process.
- He spoke about the fact that Indigenous Peoples are often put in positions where they

can't influence without litigation, which threatens the entire relationship.

- Mr. David wondered whether the Westminster style of government is compatible with Nation-to-Nation.
- He said that we need to look carefully at Indigenous public administration and move control from the federal government to other levels.

Maryantonett Flumian

- Ms. Flumian suggested that the Government, in consultation with Indigenous partners, should first define Reconciliation (i.e. what it entails, what are the desired outcomes, how do Indigenous peoples see reconciliation). She emphasized the need for clear principles.
- The Government should avoid lengthy discussion processes and begin working with its partners in filling the gap between Indigenous peoples and other Canadians in life outcomes. The issues that Indigenous peoples are facing are well identified and vastly documented. The Government's action should focus on attainable objectives, rather than aiming for the impossible.
- The government should also consider reviewing its current set of policy tools while redefining its relationship with Indigenous peoples. Some of these tools, such as the *Indian Act*, were adopted with the objective of assimilating Indigenous peoples and could hinder the reconciliation process.
- Ms. Flumian said the way the public service is currently organized doesn't send the message of change. She said proceeding as business as usual is not an option. She said we're not dealing with the spirit of reconciliation, and of UNDRIP, but instead we are hostages to process.
- She suggested exploring bureaucratic aggregation (e.g. B.C. First Nations Health Authority) but keeping in mind that one size does not fit all.
- She pointed to Nunavut, which fought for its own government but essentially re-created what we already have. She said we can't mimic structures already in place and she called for imagination and creativity.
- Ms. Flumian said that someone needs to be empowered to be the master convener, but at the same time we can't spend a lot of time getting organized. We need outcomes.